

FILED 18 NOV 11 11:24 USDC-ORE

UNITED STATES DISTRICT COURT
FOR OREGON
EUGENE DIVISION

HONORABLE JUDGE MICHAEL R. HOGAN

Lawrence James Saccato	§	
Plaintiff ProSe'	§	Case No:10-CV-06244-HO
	§	
Vs.	§	
	§	MOTION FOR SUMMARY
	§	JUDGMENT IN FAVOR OF
U.S. Bank National Association N.D.	§	PLAINTIFF
	§	
Co-Defendant	§	
	§	

PLAINTIFFS MOTION FOR SUMMARY JUDGMENT

LR 7.1-1 Certification

The undersigned Plaintiff Lawrence James Saccato pro se, has made a good faith effort and conferred with Defendants Counsel, Chris Kayser by telephone and e-mail concerning this motion. The parties have not been able to resolve this dispute.

INTRODUCTION

(1)

The Plaintiff wishes to point out to the Court that he is NOT an individual schooled in the law, but as one of the people exercising her rights under law for the proper action of the Court in the pursuance of justice.

(2)

Plaintiff asks the court look to the substance of Plaintiff's pleadings rather than the form and asks the court to take judicial notice pursuant to FIRST CONGRESS Sess., I CH. 20 Section 32 of the Judiciary Act of 1789 (1 Stat. 73) which specifies that "*courts respectively shall proceed and give judgment according as the right of the cause and matter in law shall appear unto them, without regarding any imperfections, defects, or want of form.*" and Haines v. Kerner (404 U.S. 519), wherein the courts directed that those who are unschooled in law making complaints/pleadings shall have the court look to the substance of the complaint/pleadings rather than the form.

(3)

Plaintiff respectfully moves this Court for an order granting summary judgment in favor of the Plaintiff, pursuant to FRCP Rule 56, on the grounds that Defendant violated the FCRA US Bank willfully and negligently violated the provisions of the FCRA by willfully and/or negligently failing to comport with FCRA section 1681s-2(b); **15 U.S.C. § 1681n. Civil liability for willful noncompliance the Fair Credit Reporting Act, 616.** Defendant, US Bank also violated the **Fair Credit Reporting Act, 617. Civil liability for negligent noncompliance [15 U.S.C. § 1681o]** Plaintiff's creditworthiness has been repeatedly compromised by the acts and omissions of the defendants. Defendant, US Bank reported inaccurate balances as well as inaccurate information into the Plaintiff's credit reports. As a result Plaintiff has a negative credit score to this date and has been denied credit at reasonable rates because of the willful noncompliance actions erroneous and inaccurate reporting and inaction's of the Defendant, US Bank.

(4)

The Defendant U.S. Bank, Vice President, Stephanie Buckley by and through its Counsel Christopher Kaysar of the Larkin & Vacua LLP Firm, submitted a Declaration in Support of a Summery Judgment in favor of the Defendant including multiple exhibits dated September 30. 2011. Docket No. 48 filed 11/7/2011. The evidence submitted with the Declaration contained sensitive information including Social Security and multiple account numbers in direct violation of the FCRA, FRCP, SS Act and Pacer requirements for redaction and or truncation of sensitive information. There were 36 violations of failure to redact SS Numbers, Account Numbers and other sensitive information. 6:10-cv-06244-HO Document 49 Filed 11/07/11 Page 1 of 24 Page ID#: 196.

(5)

The Defendant U.S. Bank's Vice President Stephanie Buckley by and through its Counsel Larkin Vacura L.L.P. filed or caused to be filed an Amended Declaration of Stephanie Buckley dated September 30,2011. This document was labeled " Filed Under Seal". The Defendant, in its amended declaration also failed to redact and or truncate account information. (Buckley Declaration Exhibit B Page 14 of 14).

(6)

Defendant on its own volition by failing yet a second time to redact or truncate sensitive bank account numbers in compliance with the mandates of the FCRA, further codifies that it does not have the systems in place to prevent errors. After the careful redaction or truncation of 36 sensitive account and Social Security numbers, the Defendant show that even with the help of a high priced law firm that the two of them failed to comply with the requirements. The continued actions even with the label "Filed Under Seal" show that both the Defendant and its Counsel do not act in good faith and make a mockery of the FRCP.

(7)

Plaintiff respectfully asserts that US Bank has again violated the FCRA mandates under 1681(n) and (o) by repeatedly issuing information about plaintiff which contained sensitive account information into the Court records that could easily lead identity theft. In addition their Wilful and Negligent acts also violate other professional and ethical standards of their professions.

(8)

A single violation is sufficient to support judgment for the consumer. Cacace v. Lucas, 775 F.Supp. 502, 505 (D.Conn. 1990); Supan v. Medical Bureau of Economics, Inc., 785 F.Supp. 304, 305 (D.Conn. 1991).

Plaintiff is also entitled to summary judgment as a matter of law.

(9)

This motion is based on this notice, the records and papers on file herein, the attached Memorandum of Points and Authorities, the Declaration of Lawrence James Saccato, the attached Separate Statement of Undisputed Material Facts, and on such other evidence as may be presented at the hearing of this motion.

Respectfully submitted this 17th day of November, 2011.

Lawrence Saccato

Lawrence James Saccato pro se'
C/o 6387 Old Hwy 99 S
Roseburg Oregon 97470
541-784-2284 mess.
ljsaccato@gmail.com

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CERTIFICATE OF SERVICE

I hereby certify that a copies of the forgoing Plaintiff's MOTION FOR SUMMARY JUDGMENT, MEMORANDUM OF POINTS AND AUTHORITIES, PLAINTIFF'S, and DECLARATION OF LAWRENCE JAMES SACCATO with Supporting Exhibits for Case # 10-06244-HO, was sent by First Class Mail with postage prepaid through the United States Post Office to:

Clerk of the Court
Wayne L. Morse
United States Courthouse
405 East Eighth Avenue
Eugene, Oregon 97401

Chris Kayser for
U.S. Bank National Association N.D.
621 SW Morrison St. Suite 1450
Portland, Oregon 97205

They were deposited in the United States Post Office in Roseburg, Oregon on November 17, 2011.

LAWRENCE SACCATO
Lawrence James Saccato, Plaintiff
c/o 6387 Old Highway 99 S
Roseburg, Oregon 97471
541-784-2284 mess.
ljsaccato@gmail.com